

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## BERNARD JASPERS, Petitione

V.

KENNETH QUINN,  
Respo

Case No. C06-5049 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING HABEAS CORPUS  
PETITION WITHOUT PREJUDICE

The Magistrate Judge recommends this habeas corpus petition be dismissed without prejudice. As noted by the Magistrate Judge, the Respondent answered this petition and argued it was time barred and in addition, contained unexhausted but procedurally barred claims. Petitioner then filed a motion to dismiss his petition without prejudice. Respondent has not responded and it appears no prejudice will be suffered by grant of the motion to dismiss.

The Court, having reviewed the petition for writ of habeas corpus, Respondent's answer, the Petitioner's motion to dismiss and the Report and recommendation of Magistrate Judge J. Kelly Arnold, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Petitioner's writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**;

## ORDER - 1

1 (3) The Clerk is directed to send copies of this Order to Petitioner, counsel for  
2 Respondent and to the Hon. J. Kelley Arnold.

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4 DATED this 31<sup>st</sup> day of July, 2006.

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FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE

ORDER - 2